

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
RENTON, WASHINGTON 98055-4056

In the matter of the petition of

**Pacific Island Aviation, Inc. (PIVA)**

for an exemption from §§ 25.857(c) and  
121.314(c) of Title 14, Code of Federal  
Regulations

**Regulatory Docket No.  
FAA-2001-8933**

**AMENDED GRANT OF EXEMPTION**

By letter of February 26, 2002, Mr. Aaron A. Goerlich, and Mr. Victor H. Smith, Counsel for Pacific Island Aviation, Inc. (PIVA), Law Offices of Boros & Garofalo, P.C., Suite 550, 1201 Connecticut Avenue, N.W., Washington, D.C. 20036-2644, petitioned the Federal Aviation Administration for an amendment to Exemption No. 7465A, issued to PIVA on June 18, 2001. That grant of exemption from certain requirements of § 121.314(c) allowed PIVA to operate, until April 15, 2002, three SD3-60 airplanes beyond the cargo compartment modification deadline of March 19, 2001. The petitioners request an extension through August 31, 2002, or through the 30<sup>th</sup> day after delivery to PIVA of the aircraft modification kits by the aircraft manufacturer, Short Brothers plc, (Shorts) whichever is sooner. Additional information relevant to this petition was provided by the petitioner in letters dated March 12, 2002, and March 14, 2002.

**The petitioner requests relief from the following regulations:**

**Section 121.314(c)** requires that after March 19, 2001, each Class D compartment, regardless of volume, must meet the standards of §§ 25.857(c) and 25.858 of this Chapter for a Class C compartment unless the operation is an all-cargo operation in which case each Class D compartment may meet the standards in § 25.857(e) for a Class E compartment.

**Section 25.857(c)** requires that a Class C cargo or baggage compartment have:

- (1) A separate approved smoke detector or fire detector system to give warning at the pilot or flight engineer station,

- (2) An approved built-in fire extinguishing or suppression system controllable from the cockpit,
- (3) Means to exclude hazardous quantities of smoke, flames, or extinguishing agent, from any compartment occupied by the crew or passengers, and
- (4) Means to control ventilation and drafts within the compartment so that the extinguishing agent used can control any fire that may start within the compartment.

**Section 25.858** requires:

- (a) The detection system must provide a visual indication to the flight crew within one minute after the start of a fire,
- (b) The system must be capable of detecting a fire at a temperature significantly below that at which the structural integrity of the airplane is substantially decreased,
- (c) There must be means to allow the crew to check in flight, the functioning of each fire detector circuit, and
- (d) The effectiveness of the detection system must be shown for all approved operating configurations and conditions.

**The petitioner's supportive information is as follows:**

“On June 18, 2001, Exemption No. 7465A was issued to Pacific Island Aviation, Inc. (PIVA). Under the exemption, so long as prescribed requirements are met,<sup>1</sup> PIVA is exempt from the provisions of § 121.314(c) of the Federal Aviation Regulations to the extent necessary to allow PIVA to operate its three Shorts SD3-60 airplanes with Class D cargo compartments through April 15, 2002, or through the 30<sup>th</sup> day after delivery to PIVA of aircraft modification kits by the aircraft manufacturer, whichever is sooner.

“PIVA has complied with the exemption conditions and has otherwise acted diligently to meet the prescribed deadline. However, based upon circumstances beyond PIVA’s control which are discussed below, it has become evident that PIVA will be unable to meet the specified deadline, and it therefore requests that the deadline be extended.

---

<sup>1</sup> “These requirements include: (i) development and implementation of a Checked Baggage HAZMAT Screening Process; (ii) the carriage of two fire extinguishing bottles (as well as a third one on the flight deck); (iii) implementation of certain flight time limitations; (iv) the carriage of no hazardous material; and (v) the submission of a monthly progress report.”

“As the FAA is aware, PIVA’s ability to comply with the requirements of § 121.314(c) is dependent upon the ongoing development and certification of suitable cargo compartment modification kits by the aircraft’s manufacturer, Short Brothers plc (Shorts). At the time of issuance of Exemption No. 7465A, PIVA and the FAA reasonably believed the modification kits would be certified, delivered and installed prior to April 15, 2002, hence the compliance deadline set forth in the exemption.

“On January 15, 2002, PIVA was informed by Shorts for the first time that Shorts may not be able to complete the kits in time for installation by the April 15, 2002 deadline; this information was updated and re-confirmed by a Shorts status report on February 4, 2002. On February 8, Shorts’ Principal Airworthiness Engineer, Mr. Roger Moore, provided projected dates of receipt by Shorts of various components required for the modification kits. The February 8 correspondence estimates that the complete modification kits will be available to PIVA on or about July 5, 2002, and that an estimated 150-200 man hours per aircraft will be required for installation of such kits by PIVA with on-site assistance from Shorts.

“In light of these developments, and given the inability of Shorts to deliver complete modification kits to PIVA by April 15, 2002 (much less 30 days prior to that date), PIVA requests that Exemption No. 7465A be amended to modify the final compliance deadline to 30 days after delivery to PIVA of three complete kits by Shorts (*i.e.*, removal of the April 15, 2002 component of Exemption No. 7465A compliance deadline). In the alternative, PIVA requests that the April 15 deadline be extended to August 31, 2002. This date would be in accord with the projected modification kit delivery date contained in Attachment C [February 8, 2002, e-mail from Shorts regarding monthly status report], while providing PIVA necessary time to install the modification kits.

“In support of this request, PIVA respectfully incorporates herein by reference the information summarized at Pages 2-5 of Exemption No. 7465A, as well as the corresponding FAA findings and conclusions. In particular, the FAA found that unique circumstances were present and agreed with PIVA “that their justification with respect to ‘Essential Air Service’ [EAS] is valid.”<sup>2</sup> There has been no change in PIVA’s status as an EAS provider, and an interruption or cessation of PIVA’s service would have a substantial adverse effect upon the local economies of the Northern Mariana Islands. Further, PIVA’s continued compliance with the operational conditions and limitations prescribed by Exemption No. 7465A will assure there is no adverse effect upon the level of safety provided by the regulations, as found in Exemption No. 7465A (Page 6). In short, continued relief is very much in the public interest. Please be aware that PIVA remains fully committed to the acquisition and installation of the modification kits as soon as Shorts can make them available.

---

<sup>2</sup> Exemption No. 7465A at 5.

“Finally, as before, good cause exists for waiver of any advance-filing or *Federal Register* publication requirement in relation to this petition, particularly since only an extension is requested, as distinguished from a substantive change to the exemption. Further, given the January 15 initial notification from Shorts of the subject implementation delay, the usual 120-day advance filing requirement could not be met.”

## **Notice and Public Procedure**

The FAA has honored the petitioner’s good cause request and has waived the requirement to publish a summary of the petition in the Federal Register for public comment.

## **The Federal Aviation Administration's analysis/summary is as follows:**

In granting the previous exemption extension, the FAA thought that the last 280 day extension was reasonable. We now recognize that due to apparent difficulties encountered by the petitioner, compliance cannot be met under the terms of Exemption No. 7465A and a further extension is now being sought. The petitioner was advised that granting an extension of the compliance date to his petition for exemption was predicated upon receipt by the FAA of paperwork showing a confirmation from the kit manufacturer (Shorts) to the petitioner of (1) a firm price quote, (2) receipt of any advance payment required by Shorts, and (3) a final purchase order to that effect. In addition, the FAA advised Shorts to provide firm delivery dates for the kits and parts. The FAA considers that receipt of the following information constitutes fulfillment of the paperwork requirements: (1) firm price quote from Shorts provided in e-mail dated March 20, 2002; (2) advance payment of bank wire transfer confirmed by attachment to letter dated March 14, 2002, from the Law Offices of Boros & Garofalo, Counsel for PIVA; and (3) e-mail from Shorts dated March 20, 2002, confirming support for the August 15, 2002, compliance date.

Based on information we received from Shorts, we agree with the petitioner that complete modification kits will be available to PIVA on or about July 5, 2002, and that an estimated 150-200 man hours per airplane will be required for installation of such kits by PIVA, with on-site assistance from Shorts.

To extend this exemption, we have determined that it is necessary to retain the same additional conditions relative to the previous exemption to minimize the possibility of fire in the cargo compartment and to minimize its impact, should a fire occur, in order to provide an acceptable level of safety.

This amendment refers to the same airplanes identified in the section “Description of Each Aircraft to be Covered” in Exemption No. 7465.

In consideration of the foregoing, I find that a grant of exemption is in the public interest and will not adversely affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator, the petition of Pacific Island Aviation, Inc. (PIVA) for an amendment to Exemption 7465A from the provisions of § 121.314(c) is hereby granted. This exemption is granted to the extent necessary to allow PIVA's three Model SD3-60 airplanes to operate through August 31, 2002, or through the 30<sup>th</sup> day after delivery to PIVA of the aircraft modification kits by the aircraft manufacturer, whichever is sooner.

All other provisions of Exemption 7465A, together with associated conditions and limitations, remain the same and are applicable to this amendment. This amendment is part of, and shall be attached to, Exemption 7465A.

Issued in Renton, Washington, on April 10, 2002.

/s/ Ali Bahrami  
Acting Manager  
Transport Airplane Directorate  
Aircraft Certification Service, ANM-100